CHATTEL MORTGAGES—FAILURE TO RECORD—MORTGAGOR IN POSSESSION—ESTOPPEL.—Plaintiff, as cashier, took a mortgage upon a stock of goods. The mortgagor was, by the terms of the mortgage, to remain in possession, selling the stock at retail. An oral agreement provided that the stock was to be kept up, though nothing was said as to applying the proceeds to the discharge of the mortgage debt. The mortgage was not recorded until fourteen months after it was executed, though there was no agreement to withhold it from record. A judgment having been obtained against the mortgagor, the defendant, who was a sheriff, sold the property on an execution issued on the judgment. The judgment creditors had actual notice of the unrecorded mortgage many weeks before the property mortgaged was levied upon. In an action against the sheriff for conversion, *Held,* that the mortgage was valid and that no creditors having given credit to the mortgagor, on the supposition that he held the property free of encumbrances, the mortgagee was not estopped to rely upon the validity of the mortgage. *Ward* v. *Parker* (1905), — Ia. —, 103 N. W. Rep. 104.

The authorities are conflicting as to whether or not a chattel mortgage will be good, as against the mortgagor's creditors and third parties, where the mortgagor is allowed to remain in possession of the goods with a power of sale. Many states have adopted the rule that such a mortgage is fraudulent per se. *Stevens et al.* v. *Curran et al.*, 28 Mont. 366, 72 Pac. 753; *Mandeville* v. *Avery,* 124 N. Y. 376, 26 N. E. 951, 21 Am. St. Rep. 678; *Barchard* v. *Kohn,* 157 Ill. 579; *Standard Implement Co.* v. *Schultz,* 45 Kan. 52, 25 Pac. 625. About an equal number of states take the view that such possession, by the mortgagor, while presumptive evidence of fraud, does not constitute fraud per se. *Blanchard* v. *Cooke,* 144 Mass. 207, 226; *Fink* v. *Ehrman Bros.,* 44 Ark. 310; *Black Hills Mer. Co.* v. *Gardiner et al.,* 5 S. Dak. 246, 58 N. W. 557. As to the question of delay, in recording a chattel mortgage, it is held, by many courts, that a mortgage is not rendered fraudulent, as to subsequent creditors, by mere failure to record, where there is no agreement between the mortgagor and mortgagee that the mortgage shall not be recorded. *Mull* v. *Dooley,* 89 Ia. 312, 56 N. W. 513; *Stewart* v. *Hopkins,* 30 Ohio St. 502; *Grimes Dry Goods Co.* v. *McKee,* 51 Kan. 704, 33 Pac. 594. The court in *Clark* v. *McDuffie,* 21 N. Y. Supp. 174, held that the chattel mortgage, although filing was delayed, was good as against one who, with actual notice of the mortgage, had purchased the mortgaged property at sheriff's sale. Where, however, there has been delay in filing a chattel mortgage and the rights of creditors have intervened between the execution of the chattel mortgage and the filing thereof, such rights will not be affected by the subsequent filing of the mortgage. *Willamette Casket Co.* v. *Cross, etc., Co.,* 12 Wash. 190, 40 Pac. 729; *Cutler* v. *Steele,* 85 Mich. 627; *Maddox* v. *Wilson,* 91 Ga. 39, 16 S. E. 213.

CONNECTING CARRIERS—LOSS OF GOODS—LIABILITY.—In an action brought against three railroad corporations and a steamship company, jointly, or severally, to recover damages for failure to transport and deliver safely certain personal property which the plaintiff shipped at the city of Nashville, in the State of Tennessee, to be delivered at Lynbrook on Long Island, in

the State of New York, *Held,* a connecting carrier is not liable for the default of another carrier in performing part of the transportation, where there was merely a traffic agreement for division of profits arising from the transportation. *Wilson* v. *Louisville & N. R. Co.* (1905), — N. Y. —, 92 N. Y. Supp. 1091.

The theory of the action is that all and each of the corporations are liable by reason of some arrangement or agreement between them, and that they are to be bound by the undertaking of the initial carrier. This situation must result from some contract or agreement which would constitute the defendants liable for the default of any one of the carriers in performing the contract of transportation. *Swift* v. *Pacific Mail Steamship Co.,* 106 N. Y. 206, 12 N. E. 583. In the absence of a special contract, the liability of the first carrier ceases when it has safely carried and delivered the shipment to the second without unreasonable delay. *Chicago I. & L. Ry. Co.* v. *Woodward,* — Ind. —, 72 N. E. 558. Where goods are delivered to a transportation company to be transported over its route, and over several railroads to the place of their destination, the companies having associated and formed a continuous line an intermediate company is liable in the absence of a special contract for the loss of goods happening upon its part of the line. *Barter & Co.* v. *Wheeler,* 49 N. H. 9, 6 Am. Rep. 434; *Western & Atlantic R. R.* v. *McDaniel & Strong,* 42 Ga. 641; *Bullock* v. *Boston & H. Dispatch Co.,* — Mass. —, 72 N. E. 256; *Montgomery & West Point Railroad Co.* v. *Moore,* 51 Ala. 394; *Lotspeich* v. *Central R. R. Co. of Georgia,* 73 Ala. 306. Recovery may be had of the initial carrier for injury to perishable goods shipped over connecting lines, caused by negligent delay in transporting though each carrier was guilty of delay, there being no evidence that the damages were caused solely by the delay of the subsequent carriers. *St. Louis I. M. Ry. Co.* v. *Coolidge,* — Ark. —, 83 S. W. 333. But a mere traffic arrangement for a division of the profits of transportation among different corporations does not create a joint contract. *Merrick* v. *Gordon,* 20 N. Y. 96.

CONSTITUTIONAL LAW—CIVIL RIGHTS—DISCRIMINATION IN LICENSES.—Defendant was prosecuted for violation of a city ordinance forbidding the issuing of trading stamps without a license. *Held,* that such ordinance was unconstitutional and void. *City Council of Montgomery* v. *Kelly* (1905), — Ala. —, 38 So. Rep. 67.

This decision is based upon the highest principles of justice and is supported by good authority. Under the police power, municipalities have power to require licenses, but such licenses are merely allowed as a means of regulation and their amount cannot exceed the cost of supervision. *Van Hook* v. *City of Selma,* 70 Ala. 361, 45 Am. Rep. 85. The state has the right to select certain occupations and throw the burden of taxation on them, but if an arbitrary classification, without a reasonable basis to support it, is established, the tax is void. JUDSON ON TAXATION, § 459; TIEDEMAN'S LIMITATIONS OF POLICE POWER, p. 273. The power to levy such a heavy tax on a business or occupation as to discourage or even break it up is also well recognized; but useful occupations, not detrimental to the public, cannot be unduly restricted or substantially prohibited under the guise of police regula-